

1 AN ACT concerning State government, which may be cited as
2 the Act to End Atrocities and Terrorism in the Sudan.

3 **Be it enacted by the People of the State of Illinois,**
4 **represented in the General Assembly:**

5 Section 5. The Deposit of State Moneys Act is amended by
6 changing Section 22.5 and by adding Section 22.6 as follows:

7 (15 ILCS 520/22.5) (from Ch. 130, par. 41a)

8 Sec. 22.5. Permitted investments. The State Treasurer may,
9 with the approval of the Governor, invest and reinvest any
10 State money in the treasury which is not needed for current
11 expenditures due or about to become due, in obligations of the
12 United States government or its agencies or of National
13 Mortgage Associations established by or under the National
14 Housing Act, 1201 U.S.C. 1701 et seq., or in mortgage
15 participation certificates representing undivided interests in
16 specified, first-lien conventional residential Illinois
17 mortgages that are underwritten, insured, guaranteed, or
18 purchased by the Federal Home Loan Mortgage Corporation or in
19 Affordable Housing Program Trust Fund Bonds or Notes as defined
20 in and issued pursuant to the Illinois Housing Development Act.
21 All such obligations shall be considered as cash and may be
22 delivered over as cash by a State Treasurer to his successor.

23 The State Treasurer may, with the approval of the Governor,
24 purchase any state bonds with any money in the State Treasury
25 that has been set aside and held for the payment of the
26 principal of and interest on the bonds. The bonds shall be
27 considered as cash and may be delivered over as cash by the
28 State Treasurer to his successor.

29 The State Treasurer may, with the approval of the Governor,
30 invest or reinvest any State money in the treasury that is not
31 needed for current expenditure due or about to become due, or
32 any money in the State Treasury that has been set aside and

1 held for the payment of the principal of and the interest on
2 any State bonds, in shares, withdrawable accounts, and
3 investment certificates of savings and building and loan
4 associations, incorporated under the laws of this State or any
5 other state or under the laws of the United States; provided,
6 however, that investments may be made only in those savings and
7 loan or building and loan associations the shares and
8 withdrawable accounts or other forms of investment securities
9 of which are insured by the Federal Deposit Insurance
10 Corporation.

11 The State Treasurer may not invest State money in any
12 savings and loan or building and loan association unless a
13 commitment by the savings and loan (or building and loan)
14 association, executed by the president or chief executive
15 officer of that association, is submitted in the following
16 form:

17 The Savings and Loan (or Building
18 and Loan) Association pledges not to reject arbitrarily
19 mortgage loans for residential properties within any
20 specific part of the community served by the savings and
21 loan (or building and loan) association because of the
22 location of the property. The savings and loan (or building
23 and loan) association also pledges to make loans available
24 on low and moderate income residential property throughout
25 the community within the limits of its legal restrictions
26 and prudent financial practices.

27 The State Treasurer may, with the approval of the Governor,
28 invest or reinvest, at a price not to exceed par, any State
29 money in the treasury that is not needed for current
30 expenditures due or about to become due, or any money in the
31 State Treasury that has been set aside and held for the payment
32 of the principal of and interest on any State bonds, in bonds
33 issued by counties or municipal corporations of the State of
34 Illinois.

35 The State Treasurer may, with the approval of the Governor,
36 invest or reinvest any State money in the Treasury which is not

1 needed for current expenditure, due or about to become due, or
2 any money in the State Treasury which has been set aside and
3 held for the payment of the principal of and the interest on
4 any State bonds, in participations in loans, the principal of
5 which participation is fully guaranteed by an agency or
6 instrumentality of the United States government; provided,
7 however, that such loan participations are represented by
8 certificates issued only by banks which are incorporated under
9 the laws of this State or any other state or under the laws of
10 the United States, and such banks, but not the loan
11 participation certificates, are insured by the Federal Deposit
12 Insurance Corporation.

13 The State Treasurer may, with the approval of the Governor,
14 invest or reinvest any State money in the Treasury that is not
15 needed for current expenditure, due or about to become due, or
16 any money in the State Treasury that has been set aside and
17 held for the payment of the principal of and the interest on
18 any State bonds, in any of the following:

19 (1) Bonds, notes, certificates of indebtedness,
20 Treasury bills, or other securities now or hereafter issued
21 that are guaranteed by the full faith and credit of the
22 United States of America as to principal and interest.

23 (2) Bonds, notes, debentures, or other similar
24 obligations of the United States of America, its agencies,
25 and instrumentalities.

26 (2.5) Bonds, notes, debentures, or other similar
27 obligations of a foreign government, other than the
28 Republic of the Sudan, that are guaranteed by the full
29 faith and credit of that government as to principal and
30 interest, but only if the foreign government has not
31 defaulted and has met its payment obligations in a timely
32 manner on all similar obligations for a period of at least
33 25 years immediately before the time of acquiring those
34 obligations.

35 (3) Interest-bearing savings accounts,
36 interest-bearing certificates of deposit, interest-bearing

1 time deposits, or any other investments constituting
2 direct obligations of any bank as defined by the Illinois
3 Banking Act.

4 (4) Interest-bearing accounts, certificates of
5 deposit, or any other investments constituting direct
6 obligations of any savings and loan associations
7 incorporated under the laws of this State or any other
8 state or under the laws of the United States.

9 (5) Dividend-bearing share accounts, share certificate
10 accounts, or class of share accounts of a credit union
11 chartered under the laws of this State or the laws of the
12 United States; provided, however, the principal office of
13 the credit union must be located within the State of
14 Illinois.

15 (6) Bankers' acceptances of banks whose senior
16 obligations are rated in the top 2 rating categories by 2
17 national rating agencies and maintain that rating during
18 the term of the investment.

19 (7) Short-term obligations of corporations organized
20 in the United States with assets exceeding \$500,000,000 if
21 (i) the obligations are rated at the time of purchase at
22 one of the 3 highest classifications established by at
23 least 2 standard rating services and mature not later than
24 180 days from the date of purchase, (ii) the purchases do
25 not exceed 10% of the corporation's outstanding
26 obligations, ~~and~~ (iii) no more than one-third of the public
27 agency's funds are invested in short-term obligations of
28 corporations, and (iv) the corporation is not a forbidden
29 entity, as defined in Section 22.6 of the Deposit of State
30 Moneys Act.

31 (8) Money market mutual funds registered under the
32 Investment Company Act of 1940, provided that the portfolio
33 of the money market mutual fund is limited to obligations
34 described in this Section and to agreements to repurchase
35 such obligations.

36 (9) The Public Treasurers' Investment Pool created

1 under Section 17 of the State Treasurer Act or in a fund
2 managed, operated, and administered by a bank.

3 (10) Repurchase agreements of government securities
4 having the meaning set out in the Government Securities Act
5 of 1986 subject to the provisions of that Act and the
6 regulations issued thereunder.

7 (11) Investments made in accordance with the
8 Technology Development Act.

9 For purposes of this Section, "agencies" of the United
10 States Government includes:

11 (i) the federal land banks, federal intermediate
12 credit banks, banks for cooperatives, federal farm credit
13 banks, or any other entity authorized to issue debt
14 obligations under the Farm Credit Act of 1971 (12 U.S.C.
15 2001 et seq.) and Acts amendatory thereto;

16 (ii) the federal home loan banks and the federal home
17 loan mortgage corporation;

18 (iii) the Commodity Credit Corporation; and

19 (iv) any other agency created by Act of Congress.

20 The Treasurer may, with the approval of the Governor, lend
21 any securities acquired under this Act. However, securities may
22 be lent under this Section only in accordance with Federal
23 Financial Institution Examination Council guidelines and only
24 if the securities are collateralized at a level sufficient to
25 assure the safety of the securities, taking into account market
26 value fluctuation. The securities may be collateralized by cash
27 or collateral acceptable under Sections 11 and 11.1.

28 (Source: P.A. 92-546, eff. 1-1-03; 92-851, eff. 8-26-02;
29 revised 9-19-02.)

30 (15 ILCS 520/22.6 new)

31 Sec. 22.6. Prohibited deposits.

32 (a) Notwithstanding any other provision of law, the State
33 Treasurer shall not deposit any funds into or otherwise
34 contract with any financial institution unless an expressly
35 authorized officer of that financial institution annually

1 certifies, in the manner and form established by the Treasurer,
2 that the financial institution has implemented policies and
3 practices that require loan applicants to certify that they are
4 not forbidden entities.

5 (b) For the purposes of this Section:

6 "Company" is any entity capable of affecting commerce,
7 including but not limited to (i) a government, government
8 agency, natural person, legal person, sole proprietorship,
9 partnership, firm, corporation, subsidiary, affiliate,
10 franchisor, franchisee, joint venture, trade association,
11 financial institution, utility, public franchise, provider of
12 financial services, trust, or enterprise; and (ii) any
13 association thereof.

14 "Forbidden entity" means any of the following:

15 (1) The government of the Republic of the Sudan and any
16 of its agencies, including but not limited to political
17 units and subdivisions;

18 (2) Any company that is wholly or partially managed or
19 controlled by the government of the Republic of the Sudan
20 and any of its agencies, including but not limited to
21 political units and subdivisions;

22 (3) Any company (i) that is established or organized
23 under the laws of the Republic of the Sudan; or (ii) whose
24 principal place of business is in the Republic of the
25 Sudan;

26 (4) Any company (i) identified by the Office of Foreign
27 Assets Control in the United States Department of the
28 Treasury as sponsoring terrorist activities; or (ii)
29 fined, penalized, or sanctioned by the Office of Foreign
30 Assets Control in the United States Department of the
31 Treasury for any violation of any United States rules and
32 restrictions relating to the Republic of the Sudan that
33 occurred at any time following the effective date of this
34 Act; and

35 (5) Any company who has failed to certify under oath
36 that it does not own or control any property or asset

1 located in, have employees or facilities located in,
2 provide goods or services to, obtain goods or services
3 from, have distribution agreements with, issue credits or
4 loans to, purchase bonds or commercial paper issued by, or
5 invest in (i) the Republic of the Sudan; or (ii) any
6 company domiciled in the Republic of the Sudan.

7 Notwithstanding the foregoing, the term "forbidden entity"
8 shall exclude companies, except agencies of the Republic of the
9 Sudan, who are certified as Non-Government Organizations by the
10 United Nations, or who engage solely in (i) the provision of
11 goods and services intended to relieve human suffering or to
12 promote welfare, health, religious and spiritual activities,
13 and education for humanitarian purposes or otherwise; or (ii)
14 journalistic activities.

15 (c) In addition to any other penalties and remedies
16 available under the law of Illinois and the United States, any
17 transaction between a financial institution and a company that
18 violates the provisions of this Act shall be void or voidable,
19 at the joint discretion of the Treasurer and the financial
20 institution.

21 (d) This Section does not apply to (a) linked deposits made
22 by the Treasurer into financial institutions in return for that
23 institution's commitment to provide, through loans or other
24 financial support, agreed benefits in projects undertaken in
25 the community; and (b) the purchase of depository, custodial,
26 processing, and advisory services that are necessary to fulfill
27 the Treasurer's obligations and responsibilities.

28 Section 10. The Illinois Pension Code is amended by adding
29 Section 1-110.5 as follows:

30 (40 ILCS 5/1-110.5 new)

31 Sec. 1-110.5. Certain prohibited transactions.

32 (a) A fiduciary of a retirement system or pension fund
33 established under this Code shall not transfer or disburse
34 funds to, deposit into, acquire any bonds or commercial paper

1 from, or otherwise loan to or invest in any entity unless the
2 company charged with managing the assets of the retirement
3 system or pension fund, at no additional cost to the fiduciary,
4 certifies to the fiduciary, in the manner and form established
5 by the Treasurer, that:

6 (1) the fund managing company has not loaned to,
7 invested in, or otherwise transferred any of the retirement
8 system or pension fund's assets to a forbidden entity any
9 time after the effective date of this Act;

10 (2) at least 60% of the retirement system or pension
11 fund's assets are not invested in forbidden entities at any
12 time more than twelve months after the effective date of
13 this Act;

14 (3) at least 100% of the retirement system or pension
15 fund's assets are not invested in forbidden entities at any
16 time more than eighteen months after the effective date of
17 this Act.

18
19 (b) For purposes of this Section:

20 "Company" is any entity capable of affecting commerce,
21 including but not limited to (i) a government, government
22 agency, natural person, legal person, sole proprietorship,
23 partnership, firm, corporation, subsidiary, affiliate,
24 franchisor, franchisee, joint venture, trade association,
25 financial institution, utility, public franchise, provider
26 of financial services, trust, or enterprise; and (ii) any
27 association thereof.

28 "Forbidden entity" means any of the following:

29 (1) The government of the Republic of the Sudan and any of
30 its agencies, including but not limited to political units
31 and subdivisions;

32 (2) Any company that is wholly or partially managed or
33 controlled by the government of the Republic of the Sudan
34 and any of its agencies, including but not limited to
35 political units and subdivisions;

36 (3) Any company (i) that is established or organized under

1 the laws of the Republic of the Sudan; (ii) whose principal
2 place of business is in the Republic of the Sudan;

3 (4) Any company (i) identified by the Office of Foreign
4 Assets Control in the United States Department of the
5 Treasury as sponsoring terrorist activities; or (ii)
6 fined, penalized, or sanctioned by the Office of Foreign
7 Assets Control in the United States Department of the
8 Treasury for any violation of any United States rules and
9 restrictions relating to the Republic of the Sudan that
10 occurred at any time following the effective date of this
11 Act; and

12 (5) Any publicly traded company who has been identified by
13 an independent researching firm that specializes in global
14 security risk as being a company that owns or controls
15 property or assets located in, has employees or facilities
16 located in, provides goods or services to, obtain goods or
17 services from, has distribution agreements with, issue
18 credits or loans to, purchase bonds or commercial paper
19 issued by, or invest in (i) the Republic of the Sudan; or
20 (ii) any company domiciled in the Republic of the Sudan;
21 and

22 (6) Any non publicly-traded company that fails to submit to
23 the fund managing company an affidavit sworn under oath in
24 which an expressly authorized officer of the company avers
25 that the company (i) does not own or control any property
26 or asset located in the Republic of the Sudan; and (ii) did
27 not transact commercial business in the Republic of the
28 Sudan.

29 Notwithstanding the foregoing, the term "forbidden entity"
30 shall exclude companies, except agencies of the Republic of the
31 Sudan, who are certified as Non-Government Organizations by the
32 United Nations, or who engage solely in (i) the provision of
33 goods and services intended to relieve human suffering or to
34 promote welfare, health, religious and spiritual activities,
35 and education humanitarian purposes or otherwise; or (ii)
36 journalistic activities.

1 (c) In addition to any other penalties and remedies
2 available under the law of Illinois and the United States, any
3 transaction that violates the provisions of this Act shall be
4 void or voidable, at the sole discretion of the fiduciary.

5 Section 90. Term; construction. The provisions of this
6 amendatory Act of the 94th General Assembly shall have full
7 force and effect until such time as the government of the
8 United States, through Executive Order or otherwise, rescinds
9 Executive Order 13067, or until such time as these provisions
10 are repealed or modified by the General Assembly. This
11 amendatory Act of the 94th General Assembly shall be construed
12 under the laws of the State of Illinois and, where applicable,
13 the laws of the United States.

14 Section 99. Effective date. This Act takes effect 7 months
15 after becoming law.